



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB5924

by Rep. Michael J. Zalewski

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501

from Ch. 95 1/2, par. 11-501

Amends the Illinois Vehicle Code. Provides that a person shall not drive or be in actual physical control of any vehicle within this State while there is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting from the use or consumption of a controlled substance listed in the Illinois Controlled Substances Act in excess of the prescribed amount in the person's prescription for the controlled substance.

LRB098 16415 MLW 51480 b

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by changing  
5 Section 11-501 as follows:

6 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

7 Sec. 11-501. Driving while under the influence of alcohol,  
8 other drug or drugs, intoxicating compound or compounds or any  
9 combination thereof.

10 (a) A person shall not drive or be in actual physical  
11 control of any vehicle within this State while:

12 (1) the alcohol concentration in the person's blood or  
13 breath is 0.08 or more based on the definition of blood and  
14 breath units in Section 11-501.2;

15 (2) under the influence of alcohol;

16 (3) under the influence of any intoxicating compound or  
17 combination of intoxicating compounds to a degree that  
18 renders the person incapable of driving safely;

19 (4) under the influence of any other drug or  
20 combination of drugs to a degree that renders the person  
21 incapable of safely driving;

22 (5) under the combined influence of alcohol, other drug  
23 or drugs, or intoxicating compound or compounds to a degree

1 that renders the person incapable of safely driving; ~~or~~

2 (6) there is any amount of a drug, substance, or  
3 compound in the person's breath, blood, or urine resulting  
4 from the unlawful use or consumption of cannabis listed in  
5 the Cannabis Control Act, a controlled substance listed in  
6 the Illinois Controlled Substances Act, an intoxicating  
7 compound listed in the Use of Intoxicating Compounds Act,  
8 or methamphetamine as listed in the Methamphetamine  
9 Control and Community Protection Act. Subject to all other  
10 requirements and provisions under this Section, this  
11 paragraph (6) does not apply to the lawful consumption of  
12 cannabis by a qualifying patient licensed under the  
13 Compassionate Use of Medical Cannabis Pilot Program Act who  
14 is in possession of a valid registry card issued under that  
15 Act, unless that person is impaired by the use of cannabis;  
16 or -

17 (7) there is any amount of a drug, substance, or  
18 compound in the person's breath, blood, or urine resulting  
19 from the use or consumption of a controlled substance  
20 listed in the Illinois Controlled Substances Act in excess  
21 of the prescribed amount in the person's prescription for  
22 the controlled substance.

23 (b) The fact that any person charged with violating this  
24 Section is or has been legally entitled to use alcohol,  
25 cannabis under the Compassionate Use of Medical Cannabis Pilot  
26 Program Act, other drug or drugs, or intoxicating compound or

1 compounds, or any combination thereof, shall not constitute a  
2 defense against any charge of violating this Section.

3 (c) Penalties.

4 (1) Except as otherwise provided in this Section, any  
5 person convicted of violating subsection (a) of this  
6 Section is guilty of a Class A misdemeanor.

7 (2) A person who violates subsection (a) or a similar  
8 provision a second time shall be sentenced to a mandatory  
9 minimum term of either 5 days of imprisonment or 240 hours  
10 of community service in addition to any other criminal or  
11 administrative sanction.

12 (3) A person who violates subsection (a) is subject to  
13 6 months of imprisonment, an additional mandatory minimum  
14 fine of \$1,000, and 25 days of community service in a  
15 program benefiting children if the person was transporting  
16 a person under the age of 16 at the time of the violation.

17 (4) A person who violates subsection (a) a first time,  
18 if the alcohol concentration in his or her blood, breath,  
19 or urine was 0.16 or more based on the definition of blood,  
20 breath, or urine units in Section 11-501.2, shall be  
21 subject, in addition to any other penalty that may be  
22 imposed, to a mandatory minimum of 100 hours of community  
23 service and a mandatory minimum fine of \$500.

24 (5) A person who violates subsection (a) a second time,  
25 if at the time of the second violation the alcohol  
26 concentration in his or her blood, breath, or urine was

1           0.16 or more based on the definition of blood, breath, or  
2           urine units in Section 11-501.2, shall be subject, in  
3           addition to any other penalty that may be imposed, to a  
4           mandatory minimum of 2 days of imprisonment and a mandatory  
5           minimum fine of \$1,250.

6           (d) Aggravated driving under the influence of alcohol,  
7           other drug or drugs, or intoxicating compound or compounds, or  
8           any combination thereof.

9           (1) Every person convicted of committing a violation of  
10          this Section shall be guilty of aggravated driving under  
11          the influence of alcohol, other drug or drugs, or  
12          intoxicating compound or compounds, or any combination  
13          thereof if:

14                 (A) the person committed a violation of subsection  
15                 (a) or a similar provision for the third or subsequent  
16                 time;

17                 (B) the person committed a violation of subsection  
18                 (a) while driving a school bus with one or more  
19                 passengers on board;

20                 (C) the person in committing a violation of  
21                 subsection (a) was involved in a motor vehicle accident  
22                 that resulted in great bodily harm or permanent  
23                 disability or disfigurement to another, when the  
24                 violation was a proximate cause of the injuries;

25                 (D) the person committed a violation of subsection  
26                 (a) and has been previously convicted of violating

1 Section 9-3 of the Criminal Code of 1961 or the  
2 Criminal Code of 2012 or a similar provision of a law  
3 of another state relating to reckless homicide in which  
4 the person was determined to have been under the  
5 influence of alcohol, other drug or drugs, or  
6 intoxicating compound or compounds as an element of the  
7 offense or the person has previously been convicted  
8 under subparagraph (C) or subparagraph (F) of this  
9 paragraph (1);

10 (E) the person, in committing a violation of  
11 subsection (a) while driving at any speed in a school  
12 speed zone at a time when a speed limit of 20 miles per  
13 hour was in effect under subsection (a) of Section  
14 11-605 of this Code, was involved in a motor vehicle  
15 accident that resulted in bodily harm, other than great  
16 bodily harm or permanent disability or disfigurement,  
17 to another person, when the violation of subsection (a)  
18 was a proximate cause of the bodily harm;

19 (F) the person, in committing a violation of  
20 subsection (a), was involved in a motor vehicle,  
21 snowmobile, all-terrain vehicle, or watercraft  
22 accident that resulted in the death of another person,  
23 when the violation of subsection (a) was a proximate  
24 cause of the death;

25 (G) the person committed a violation of subsection  
26 (a) during a period in which the defendant's driving

1 privileges are revoked or suspended, where the  
2 revocation or suspension was for a violation of  
3 subsection (a) or a similar provision, Section  
4 11-501.1, paragraph (b) of Section 11-401, or for  
5 reckless homicide as defined in Section 9-3 of the  
6 Criminal Code of 1961 or the Criminal Code of 2012;

7 (H) the person committed the violation while he or  
8 she did not possess a driver's license or permit or a  
9 restricted driving permit or a judicial driving permit  
10 or a monitoring device driving permit;

11 (I) the person committed the violation while he or  
12 she knew or should have known that the vehicle he or  
13 she was driving was not covered by a liability  
14 insurance policy;

15 (J) the person in committing a violation of  
16 subsection (a) was involved in a motor vehicle accident  
17 that resulted in bodily harm, but not great bodily  
18 harm, to the child under the age of 16 being  
19 transported by the person, if the violation was the  
20 proximate cause of the injury;

21 (K) the person in committing a second violation of  
22 subsection (a) or a similar provision was transporting  
23 a person under the age of 16; or

24 (L) the person committed a violation of subsection  
25 (a) of this Section while transporting one or more  
26 passengers in a vehicle for-hire.

1           (2) (A) Except as provided otherwise, a person  
2 convicted of aggravated driving under the influence of  
3 alcohol, other drug or drugs, or intoxicating compound or  
4 compounds, or any combination thereof is guilty of a Class  
5 4 felony.

6           (B) A third violation of this Section or a similar  
7 provision is a Class 2 felony. If at the time of the third  
8 violation the alcohol concentration in his or her blood,  
9 breath, or urine was 0.16 or more based on the definition  
10 of blood, breath, or urine units in Section 11-501.2, a  
11 mandatory minimum of 90 days of imprisonment and a  
12 mandatory minimum fine of \$2,500 shall be imposed in  
13 addition to any other criminal or administrative sanction.  
14 If at the time of the third violation, the defendant was  
15 transporting a person under the age of 16, a mandatory fine  
16 of \$25,000 and 25 days of community service in a program  
17 benefiting children shall be imposed in addition to any  
18 other criminal or administrative sanction.

19           (C) A fourth violation of this Section or a similar  
20 provision is a Class 2 felony, for which a sentence of  
21 probation or conditional discharge may not be imposed. If  
22 at the time of the violation, the alcohol concentration in  
23 the defendant's blood, breath, or urine was 0.16 or more  
24 based on the definition of blood, breath, or urine units in  
25 Section 11-501.2, a mandatory minimum fine of \$5,000 shall  
26 be imposed in addition to any other criminal or



1 administrative sanction. If at the time of the fourth  
2 violation, the defendant was transporting a person under  
3 the age of 16 a mandatory fine of \$25,000 and 25 days of  
4 community service in a program benefiting children shall be  
5 imposed in addition to any other criminal or administrative  
6 sanction.

7 (D) A fifth violation of this Section or a similar  
8 provision is a Class 1 felony, for which a sentence of  
9 probation or conditional discharge may not be imposed. If  
10 at the time of the violation, the alcohol concentration in  
11 the defendant's blood, breath, or urine was 0.16 or more  
12 based on the definition of blood, breath, or urine units in  
13 Section 11-501.2, a mandatory minimum fine of \$5,000 shall  
14 be imposed in addition to any other criminal or  
15 administrative sanction. If at the time of the fifth  
16 violation, the defendant was transporting a person under  
17 the age of 16, a mandatory fine of \$25,000, and 25 days of  
18 community service in a program benefiting children shall be  
19 imposed in addition to any other criminal or administrative  
20 sanction.

21 (E) A sixth or subsequent violation of this Section or  
22 similar provision is a Class X felony. If at the time of  
23 the violation, the alcohol concentration in the  
24 defendant's blood, breath, or urine was 0.16 or more based  
25 on the definition of blood, breath, or urine units in  
26 Section 11-501.2, a mandatory minimum fine of \$5,000 shall

1 be imposed in addition to any other criminal or  
2 administrative sanction. If at the time of the violation,  
3 the defendant was transporting a person under the age of  
4 16, a mandatory fine of \$25,000 and 25 days of community  
5 service in a program benefiting children shall be imposed  
6 in addition to any other criminal or administrative  
7 sanction.

8 (F) For a violation of subparagraph (C) of paragraph  
9 (1) of this subsection (d), the defendant, if sentenced to  
10 a term of imprisonment, shall be sentenced to not less than  
11 one year nor more than 12 years.

12 (G) A violation of subparagraph (F) of paragraph (1) of  
13 this subsection (d) is a Class 2 felony, for which the  
14 defendant, unless the court determines that extraordinary  
15 circumstances exist and require probation, shall be  
16 sentenced to: (i) a term of imprisonment of not less than 3  
17 years and not more than 14 years if the violation resulted  
18 in the death of one person; or (ii) a term of imprisonment  
19 of not less than 6 years and not more than 28 years if the  
20 violation resulted in the deaths of 2 or more persons.

21 (H) For a violation of subparagraph (J) of paragraph  
22 (1) of this subsection (d), a mandatory fine of \$2,500, and  
23 25 days of community service in a program benefiting  
24 children shall be imposed in addition to any other criminal  
25 or administrative sanction.

26 (I) A violation of subparagraph (K) of paragraph (1) of

1           this subsection (d), is a Class 2 felony and a mandatory  
2           fine of \$2,500, and 25 days of community service in a  
3           program benefiting children shall be imposed in addition to  
4           any other criminal or administrative sanction. If the child  
5           being transported suffered bodily harm, but not great  
6           bodily harm, in a motor vehicle accident, and the violation  
7           was the proximate cause of that injury, a mandatory fine of  
8           \$5,000 and 25 days of community service in a program  
9           benefiting children shall be imposed in addition to any  
10          other criminal or administrative sanction.

11           (J) A violation of subparagraph (D) of paragraph (1) of  
12          this subsection (d) is a Class 3 felony, for which a  
13          sentence of probation or conditional discharge may not be  
14          imposed.

15           (3) Any person sentenced under this subsection (d) who  
16          receives a term of probation or conditional discharge must  
17          serve a minimum term of either 480 hours of community  
18          service or 10 days of imprisonment as a condition of the  
19          probation or conditional discharge in addition to any other  
20          criminal or administrative sanction.

21           (e) Any reference to a prior violation of subsection (a) or  
22          a similar provision includes any violation of a provision of a  
23          local ordinance or a provision of a law of another state or an  
24          offense committed on a military installation that is similar to  
25          a violation of subsection (a) of this Section.

26           (f) The imposition of a mandatory term of imprisonment or

1 assignment of community service for a violation of this Section  
2 shall not be suspended or reduced by the court.

3 (g) Any penalty imposed for driving with a license that has  
4 been revoked for a previous violation of subsection (a) of this  
5 Section shall be in addition to the penalty imposed for any  
6 subsequent violation of subsection (a).

7 (h) For any prosecution under this Section, a certified  
8 copy of the driving abstract of the defendant shall be admitted  
9 as proof of any prior conviction.

10 (Source: P.A. 97-1150, eff. 1-25-13; 98-122, eff. 1-1-14;  
11 98-573, eff. 8-27-13; revised 9-19-13.)